



## ***Texas Department of Insurance***

### ***Division of Workers' Compensation***

Medical Fee Dispute Resolution, MS-48

7551 Metro Center Drive, Suite 100 • Austin, Texas 78744-1645

512-804-4000 telephone • 512-804-4811 fax • [www.tdi.texas.gov](http://www.tdi.texas.gov)

## ***MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION***

### ***GENERAL INFORMATION***

#### **Requestor Name and Address**

MEYER L PROLER MD & ASSOCIATES  
1001 TEXAS AVENUE SUITE 450  
HOUSTON TX 77002

#### **Respondent Name**

TEXAS MUTUAL INSURANCE CO

#### **Carrier's Austin Representative Box**

Box Number 54

#### **MFDR Tracking Number**

M4-11-1956-01

#### **MFDR Date Received**

JANUARY 27, 2011

### ***REQUESTOR'S POSITION SUMMARY***

**Requestor's Position Summary:** "claim was denied inappropriately"

**Requestor's Position Summary dated January 26, 2011:** "Texas Mutual denied payment for the attached claims because (i) Dr. Proler did not disclose his ownership interest in StatLink Manager and/or (ii) he did not provide the appropriate level of supervision to give him the right to bill for the technical component of the services. As demonstrated above:

1. Dr. Proler had absolutely no obligation under DWC rules to disclose his ownership interest in StatLink because: a. StatLink, a management company, b. As a management company StatLink provides no health care services and is not a health care provider; and c. Dr. Proler refers no patients to StatLink.
2. The use of the real time, visual and audio telemedicine technology allows Dr. Proler to supervise the technician providing the technical portion of the IOM EMG services as if he were in the same room with the technician and surgical team, thereby meeting the requirement for direct supervision required by the DWC rules.
3. Physician supervision of technicians assisting in the performance of EMGs furnished as part of a remote IOM procedure provided through the use of telemedicine technology is accepted by Medicare and virtually every commercial payor."

**Amount in Dispute:** \$1615.94

### ***RESPONDENT'S POSITION SUMMARY***

**Respondent's Position Summary:** "The date of service in dispute is January 13, 2010. The requestor filed its request for medical fee dispute resolution on January 27, 2011 (*see Attachment B*), which is beyond the one year filing limit. There are no exceptions under DWC Rule 133.307(c)(1)(B) that would extend the requestor's time period for filing."

**Response Submitted by:** Texas Mutual Insurance Co., 6210 East Hwy 290, Austin, TX 78723-1098

## SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
January 13, 2010	CPT Codes: 95920, 95822, 95925, 95926, 95904 and 95861	\$1615.94	\$0.00

## FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

### Background

- 28 Texas Administrative Code §133.307 sets out the procedures for health care providers to pursue a medical fee dispute.
- The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated May 20, 2010

- Direct supervision by a licensed physician/health care provider lacking as represented on bill. Purported supervision by a licensed physician/health care provider was not of an employee. The health care provider who provided or supervised the services must submit his or her own bill.
- CAC-W1-Workers compensation state fee schedule adjustment.
- CAC-16-Claim/service lacks information which is needed for adjudication. At least one remark code must be provided (May be comprised of either the remittance advice remark code or NCPDP reject reason code).
- 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
- 892-Per DWC rules 133.10, 133.20 and clean claim guide instructions for completing the CMS-1500 professional license type. Number and jurisdiction of the individual HCP who rendered the health care is required.

Explanation of benefits dated December 9, 2010

- Direct supervision by a licensed physician/health care provider lacking as represented on bill. Purported supervision by a licensed physician/health care provider was not of an employee. The health care provider who provided or supervised the services must submit his or her own bill.
- CAC-W1-Workers compensation state fee schedule adjustment.
- CAC-16-Claim/service lacks information which is needed for adjudication. At least one remark code must be provided (May be comprised of either the remittance advice remark code or NCPDP reject reason code).
- 225-The submitted documentation does not support the service being billed. We will re-evaluate this upon receipt of clarifying information.
- 892-Per DWC rules 133.10, 133.20 and clean claim guide instructions for completing the CMS-1500 professional license type. Number and jurisdiction of the individual HCP who rendered the health care is required.
- 891-No additional payment after reconsideration.
- W4-No additional reimbursement allowed after review of appeal/reconsideration.
- Per Rule 180.24, financial disclosure not met.
- CAC-B7-This provider was not certified/eligible to be paid for this procedure/service on this date of service.
- 896-Statutory/regulatory violation.

### Issue

- Did the requestor waive the right to medical fee dispute resolution?

### Findings

28 Texas Administrative Code §133.307(c)(1) states: "Timeliness. A requestor shall timely file with the Division's MDR Section or waive the right to MDR. The Division shall deem a request to be filed on the date the MDR Section receives the request. (A) A request for medical fee dispute resolution that does not involve issues identified in subparagraph (B) of this paragraph shall be filed no later than one year after the date(s) of service in

dispute." The date of the services in dispute is January 13, 2010. The request for medical dispute resolution was received in the Medical Dispute Resolution (MDR) section on January 27, 2011. This date is later than one year after the date(s) of service in dispute. Review of the submitted documentation finds that the disputed services do not involve issues identified in §133.307, subparagraph (B). The Division concludes that the requestor has failed to timely file this dispute with the Division's MDR Section; consequently, the requestor has waived the right to medical fee dispute resolution.

### **Conclusion**

The Division finds that the requestor has waived the right to medical fee dispute resolution for the services in dispute. For that reason, the merits of the issues raised by both parties to this dispute have not been addressed.

### **Authorized Signature**

_____ Signature	_____ Medical Fee Dispute Resolution Officer	8/16/2012 _____ Date
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### ***YOUR RIGHT TO APPEAL***

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

**Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.**